

METROPOLITAN AREA PLANNING COMMISSION
MINUTES

October 14, 1999

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, October 14, 1999 at 1:30 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; Chris Carraher; Bud Hentzen; Bill Johnson; Richard Lopez; John W. McKay, Jr.; Susan Osborne-Howes; George Platt; Harold L. Warner, Jr.; Ray Warren; and Deanna Wheeler. James Barfield; Ronald Marnell and Jerry Michaelis were not present. Staff present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; and Karen Wolf, Recording Secretary.

1. Approval of minutes for MAPC meeting of July 29, 1999.

WARREN "On Page 57, the pile of metal should be 30 feet, not 300 feet."

GAROFALO "And on Pages 38 and 39, the name of the person should be 'Sandlian'. Then, on Page 65, about a third of the way down, it should read, 'you would be surprised, I have a relative that lives in *Sedgwick Plaza*'. Are there any other changes or corrections?"

MOTION: That the Planning Commission approve the minutes of July 29, 1999 as amended.

MCKAY moved, **LOPEZ** seconded the motion, and it carried unanimously (11-0).

GAROFALO "We can take items 2/1 through 2/7 in one motion."

LOPEZ "I think I was at this Subdivision meeting, although it doesn't mention my name."

GAROFALO "Okay. We will take note of that. Chris Carraher isn't on the Subdivision Committee and it states that he was there. So, we need to substitute Richard Lopez for Chris Carraher."

2. Subdivision Committee items 2/1, 2/2, 2/3, 2/4, 2/5, 2/6 and 2/7 were approved subject to the Subdivision Committee recommendations.

WARREN moved, **CARRAHER** seconded the motion, and it carried unanimously (9-0).

- 2/1. D-1772** - Dedication of a Utility Easement for property generally located north of 10th Street, on the west side of Meridian, described as:

The west 2 feet of the east 10 feet of Lot 57, except the west 30 feet and except the east 139 feet of Park Vista Addition.

This Dedication is a requirement of Lot Split L/S-1017 and is required to conform with the 10-foot standard of the Subdivision Regulations.

Planning Staff recommends the granting of this dedication be accepted.

- 2/2. D-1773** - Dedication of a Utility Easement for property generally located north of 10th Street, on the west side of Meridian, described as:

The east 2 feet of the west 10 feet of the east 139 feet of Lot 57, Park Vista Addition.

This Dedication is a requirement of Lot Split L/S-1017 and is required to conform with the 10-foot standard of the Subdivision Regulations.

Planning Staff recommends the granting of this dedication be accepted.

- 2/3. D-1774** - Dedication of a Utility Easement for property generally located south of 10th Street, east of Sheridan, described as:

The west 2 feet of the east 15 feet of the west half of Lot 61, Valley Acres Addition.

This Dedication is a requirement of Lot Split L/S-1019 and is being dedicated for the purpose of construction and maintenance of public utilities.

Planning Staff recommends the granting of this dedication be accepted.

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- 2/4. D-1775** - Dedication of a Utility Easement for property generally located south of 10th Street, east of Sheridan, described as:

The west 2 feet of the east 15 feet of the west half of Lot 61, Valley Acres Addition.

This Dedication is a requirement of Lot Split L/S-1019 and is being dedicated for the purpose of construction and maintenance of public utilities.

Planning Staff recommends the granting of this dedication be accepted.

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- 2/5. D-1776** - Right-of-Way Dedication for property generally located south of 10th Street, east of Sheridan, described as:

The north 10 feet of the west half of Lot 61, Valley Acres Addition.

This Dedication is a requirement of Lot Split L/S-1019 and is being dedicated for additional street right-of-way along 10th Street.

Planning Staff recommends the granting of this dedication be accepted.

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- 2/6. D-1777** - Dedication of Access Control for property generally located on the northwest corner of Webb Road and 39th Street North, described as:

Lot 1, Toben 3rd Addition.

This Dedication is a requirement of Lot Split L/S-1016 and is being dedicated for complete access control to said property from or to 39th Street North, over and across the east 150 feet of the south property line.

Planning Staff recommends the granting of this dedication be accepted.

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- 2/7. D-1778** – Dedication of Access Control for property generally located south of 30th Street South, west of Seneca, described as:

Lot 1, Fidelity 1st Addition; and Lot 4, Block 12, Replat of Iva Fultz Gardens Addition.

This Dedication is a requirement of the Zone Change Case Z-3283 and is being dedicated for complete access control to said property from or to 30th Street South, over and across the west 110 feet of the north line of the above described property.

Planning Staff recommends the granting of this dedication be accepted.

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- 2/8. V-2199** - M & H Investments Inc., c/o Horst Hiller; Marlin Penner requests the vacation of a utility easement, described as:

The south 10 feet of lots 13, 14 and the north 10 feet of Lots 3 and 4, except the east 50feet of said Lot 3, all in Block 1, Industrial Air Center, and Addition to Wichita, Sedgwick County, Kansas, EXCEPT the Westerly 10 feet of said Lots 4 and 13 and EXCEPT the East 10 feet of said Lot 14. Generally located south of 39th Street North and West of Webb Road.

The applicant is requesting to vacate the 20-foot utility easement along the rear property lines of four adjacent lots. The applicant wishes to use this area for the construction of buildings.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time September 22, 1999, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of above-described drainage easement and the public will suffer no loss or inconvenience thereby.
 3. Injustice to the petitioner(s) the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the utility easement described in the petition should be approved, subject to the following condition:
1. The applicant shall dedicate additional utility easement as follows:

The South 15 feet of Lots 4 and a3 Except the East 60 feet of said Lot 3, along with the West 20 feet of the East 60 feet of said Lot 3, all in Block 1, Industrial Air Center, an Addition to Wichita, Sedgwick County, Kansas.

The Subdivision Committee recommends approval, subject to the following conditions:

1. The applicant shall dedicate additional utility easement as follows:

The South 15 feet of Lots 4 and 3 Except the East 60 feet of said Lot 3, along with the West 20 feet of the East 60 feet of said Lot 3, all in Block 1, Industrial Air Center, an Addition to Wichita, Sedgwick County, Kansas.

GAROFALO "This is a public agenda item. Is there anyone here to speak on Item 2/8, this vacation request? Seeing none, what is the pleasure of the Commission?"

MCKAY moved, **PLATT** seconded the motion, and it carried unanimously (9-0).

3. Other Matters

KROUT "Is there any other business? Oh, before we adjourn, so it is part of the official record, I don't know how many of you know, but Keith Gooch will be leaving us. Effective tomorrow, he is going to Leewood, Kansas, where planning is a more respected profession. I would say that Keith has come a long way with us from interning several years ago, to Leewood, Kansas. I think he has done a great job, we are really sorry to see him go, but we understand why."

WARREN "What will you be doing, Keith?"

GOOCH "I will be working for the City of Leewood, just like I do here, pretty much. Thank you, I appreciate all of your help and everything in starting my planning career here in Wichita."

KROUT "As long as we are talking about personnel, Alan Morrison, who is in the audience is a new planner in Transportation plans. Alan comes to us from the MPO in the St. Louis area. So this is a page of a kind of closure for him, too. You will see more of him."

KROUT "We need to adjourn the meeting, We are going to record the workshop on the Comprehensive Plan update, but not make minutes. If there are any other matters, we should take them up before adjourning."

MCKAY "I just want to make some comments. I have had probably 5 to 10 calls in the last week and a half on annexations in the northwest portion. I am talking about Park City, Valley Center, Wichita, and Kechi, wanting to know what they need to do, what they can do, what they can't do, about being annexed. I guess my question is, other than just sending them a notice that they are being annexed, what is the procedure? Do we need to notify them what procedure they want? One guy said he has a petition of everybody in the area that doesn't want to be annexed. I told him that probably the best thing would be to call you."

KROUT "Sure, you can refer calls to us and we will explain what the process is, what cities can legally do. Having a petition and sending it to the City to let them know how they are feeling before they get started on it. You may not have heard about it, but Valley Center recently requested an island annexation. They have to go to the County. If you are going to annex an island and it is not a City property, then you have to go to the County Commission. Valley Center recently went to the County Commission, just yesterday, to get approval on annexing several large tracts of land that are just west of Broadway in between 77th Street and 93rd Street. I think they have another set of islands that they are asking for. This is really consistent with their planning, and Park City's plans and their zoning areas of influence and jurisdiction don't extend any further west than Broadway, but Park City did have an interest in that area. In fact, I think Valley Center felt that theirs was a pre-emptive strike before Park City could unilaterally annex the area west of Broadway."

So yeah, I think that all kinds of activity is going on out there. You probably noticed the City of Wichita's annexation. The City recently, just Tuesday night, annexed the Sun-Air Addition area, which is east and north of Willowbend, 45th and Webb Road. They just approved Tuesday a resolution to consider, at a hearing in December, what I think is the largest single annexation in at least 20 years, land that goes all the way to the Butler County line, including subdivisions that were approved and have City water and largely have annexation agreements recorded with those developments. But we would be glad to talk to the citizens about what their options are, legally, now that all of the cities locally are getting very aggressive."

MCKAY "Well, the only thing is, I think they called me because they were in the area up there on Sullivan when they were going to annex it. There were two or three people I knew up there, so they called and tried to get hold of you, and they ended up in a lawsuit, which the City won. But I think it is getting close to that same type of situation again."

KROUT "Is there any particular area?"

MCKAY "Well, the main thing is that there is a lot of acreage. We have talked to Law about 30 acre tracts of ground and the people who have been living there for 15 or 20 or 25 years that has 10 to 40 acres of ground, and now they are being annexed by the City. What effect is it going to have on them? It is a question of that more than anything. They don't want to be annexed if they can't have three or four horses or can't do this or can't do that."

KROUT "We need to talk to them about some of the details."

MCKAY "That is some of the things they have been talking to me about. Most of them are people from the Valley Center area that I know."

KROUT "They are mostly concerned about being annexed by Park City?"

MCKAY "The annexation, period."

KROUT "We would be glad to talk to them, even if it is not a Wichita annexation."

GAROFALO "Is each property owner notified?"

KROUT "Yes. By State law, if you are not requesting annexation, and it is unilateral, then we are required to send certified letters to all of the owners of property as well as the newspaper advertising."

MCKAY "If you are going to annex an area and you had a petition of 60 or 70% that said they didn't want to be annexed, does that have any effect?"

KROUT "No. It's not like zoning where it would take a super majority. In fact, an interesting thing happened at the Sun-Air Addition Tuesday night. We had Mr. Mullhagen, who is on the Bel-Air Planning Commission, and lives in that Sun-Air Addition, subject to annexation. He has attended a bunch of our meetings, just as kind of an observer, and so he has learned a lot about planning and zoning in the process. He was questioning whether or not the City could legally convert the zoning that was 'SF-20', or 'RR' Rural Residential, when it gets annexed, you know it automatically reverts to the City's smaller lot single-family zoning, and he was questioning whether or not legally you can change the zoning amendment process, with a separate public hearing.

Then he also pointed out something that we had forgotten about, but the Zoning Code says that the conversion is to 'SF-6' zoning unless the property-owner requests 'SF-10'. 'SF-10' is a new category of 10,000 square foot lots for someone who wanted to have a subdivision with a larger lot area and demonstrate that this could have a different character of development, so we left it in as an option. So, apparently, he and some of his neighbors are going to send us letters requesting that that they be zoned 'SF-10'."

WARREN "Marvin, in a lot of those cases, I think the courts have held, at least in cases that I have known of, that you can have a companion ordinance. You have one ordinance as annexing and a companion ordinance that changes the zoning without going through the zoning process. In other words, if you are going to hurt somebody by going to 'R-1', 'SF-6' here, and then making them apply for what they really are now, assuming that they are industrial now. You then have a companion ordinance that automatically gives them equivalent zoning to what they had, as near as possible."

KROUT "I know that Derby doesn't do that though, do they?"

WARREN "Derby is going to do that. Derby has tried it a time or two and is going to wind up in court by not doing it, but you can't go out and hurt a man through annexation. You already are hurting him a little bit when you establish a new tax rate for him, but you can't hurt him, if he is not zoned industrial, you can't give him 'SF-6' and then tell that he now has to apply for industrial. You can't do that."

GAROFALO "Okay. Is there any other discussion on the annexation business? If not, we should adjourn the regular meeting."

MOTION: That the Metropolitan Area Planning Commission officially adjourn.

LOPEZ moved, **CARRAHER** seconded the motion, and it carried unanimously (11-0).

The meeting adjourned at 1:50 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 1999.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)